IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 21ST NOVEMBER 2006 / 30TH KARTHIKA 1928

Crl.MC.No. 3991 of 2003(D)

CC.50/2001 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONER: ACCUSED:

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1. ABDULRAHIMAN, S/O. MUHAMMED,
KOYAS LANE, THERUVATH, KASARAGOD.

2. BABU KUNDIL ALIAS SABU KUNDIL,
S/O. BADUVANKUNHI, THERUVATH, KASARAGOD.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS:

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1. STATION HOUSE OFFICER,
KASARAGOD POLICE STATION.

2. STATE OF KERALA REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 21/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.A. NO. 6136 OF 2003 IN CRL. M.C. NO. 3991 OF 2003

DISMISSED

21.11.2006 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

CRL. M.C. NO. 3991 OF 2003

Dated this the 21st day of November 2006

ORDER

The petitioners are the accused in C.C. No. 50/2001 of Chief Judicial Magistrate, Kasaragod/Crime No. 547/2000 of Kasaragod Police Station with respect to the offences under sections 143, 147, 148, 323, 324, 326 r/w section 149 of IPC. It is submitted that the rest of the accused were tried and acquitted. As all the witnesses turned hostile even section 313 questioning has dispensed with. In the circumstances, the petitioner has sought for setting aside the proceedings pending before the court of Chief Judicial Magistrate, Kasaragod as C.C. 80/2003.

I find that the contention that as the rest of the accused have been acquitted the petitioners are entitled to get the proceedings quashed cannot be upheld in view of the full bench decision of this court in **Moosa v. Sub Inspector of Police** (2006 (1) KLT 552)**.** In the circumstances, the petitioner is directed to surrender before the court below and face with the trial. The Crl. M.C. is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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